

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE REFCO SECURITIES LITIGATION : 07 MDL 1902 (JSR)  
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----- x  
MARC S. KIRSCHNER, as Trustee of the :  
Refco Private Actions Trust, :  
Plaintiff, : 07 Civ. 8165 (JSR)  
: ORDER  
-v- :  
PHILLIP R. BENNETT et al., :  
Defendants. :  
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JED S. RAKOFF, U.S.D.J.

7/17/12

Pending before the Court in the above-captioned case is, inter alia, defendant Grant Thornton's objections to Special Master Capra's June 16, 2012 Report and Recommendation recommending that the Court deny Grant Thornton's motion for summary judgment. Having considered the parties' submissions and oral arguments, the Court hereby requests that the parties submit supplemental briefing on two issues:

- 1) Whether Bermuda law recognizes a duty similar to the New York common law duty to disclose "hopeless insolvency" or the like.
- 2) Whether, under choice of law principles, New York law governs the relationship between the plaintiff FX customers and RCM, a Bermuda entity, such that plaintiffs can properly allege a fraud committed by RCM pursuant to New York common law that serves as the primary violation underlying plaintiffs' aiding and abetting claim against defendant Grant Thornton.

The parties should limit their submissions to 10 double-spaced pages each, filed no later than Friday, July 20, 2012. Any responses to each other's submission should be limited to 5 double-spaced pages, filed no later than Monday, July 23, 2012. The Court will then, as previously promised, promptly decide all pending motions in this action by no later than Friday, July 27, 2012.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York  
July 16, 2012